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Attorneys for Defendants
BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY (erroneously sued as SAN DIEGO STATE UNIVERSITY), JEFF SCHEMMEL

FILED
DEC 14 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

IN THE UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF CALIFORNIA

DEENA DEARDURFF SCHMIDT, Plaintiff, v. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, SAN DIEGO STATE UNIVERSITY, JEFF SCHEMMEL, DOES 1-15, Defendants.	CASE NO. '07 CV 2343 DMS WMc **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441 (FEDERAL QUESTION)**

ORIGINAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that defendant Board of Trustees of the California State University, erroneously sued as San Diego State University, and Jeff Schemmel ("Defendants") hereby remove to this Court the state court action described below. The state court action is a civil action that this Court has original jurisdiction to decide under 28 U.S.C. § 1331 (federal question jurisdiction) and is one that may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441.

1. On November 7, 2007, Plaintiff Deena Deardurff Schmidt ("Plaintiff") filed an action in the Superior Court of the State of California, County of San Diego, Central Division, entitled *Deena Deardurff Schmidt v. Board of Trustees of the California State University, San Diego State University, Jeff Schemmel, does 1-15,* as Case Number 37-2007-00081372-CU-OE-CTL, attached hereto as Exhibit A.

2. On November 19, 2007, Defendant, the Board of Trustees of the California State University, was served with a copy of the complaint for damages, a summons from the state court, a notice of case assignment, and alternative dispute resolution process information. Defendant Schemmel was served on November 15, 2007. A true and correct copy of the summons is attached as Exhibit B.

3. This action is a civil action that this Court has original jurisdiction to decide under 28 U.S.C. § 1331, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441 in that it is a civil action founded on a claims that arise under Title IX of the Education Amendments of 1972, 20 U.S.C. §§1681-1688.

4. Finally, the amount in controversy exceeds $75,000 as evidenced in Plaintiff's complaint. *White v. FCI USA, Inc.*, 319 F.3d 672 674-75 (5th Cir. 2003) (when amount in controversy is not stated in complaint, amount is determined from plaintiff's requested relief). Here, it is apparent from the complaint that Plaintiff's prayer for relief exceeds $75,000.00. She seeks the following relief:

- Economic damages (Ex. A, p. 10);
- Non-economic damages (Ex. A, p. 10);

- Prejudgment interest (Ex. A, p. 10);
- Reasonable attorney's fees (Ex. A, p. 10);
- Costs of suit (Ex. A, p. 10);
- Other and further relief as the Court deems just and proper (Ex. A, p. 10).
- An award of attorneys' fees and costs of suit incurred (Exhibit C, pp. 10-11); and
- Punitive damages (Exhibit C, pp. 10-11).

5. On the date specified below, a copy of this notice is being served on Plaintiff and is being filed with the Clerk of the Superior Court for the State of California for the County of San Diego. (Attached hereto as Exhibit "C").

Dated: December 14, 2007

PAUL, PLEVIN, SULLIVAN & CONNAUGHTON LLP

By: [signature]
RICHARD A. PAUL
KARI D. SEARLES
Attorneys for Defendants BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, (erroneously sued as SAN DIEGO STATE UNIVERSITY), JEFF SCHEMMEL

EXHIBIT A

THOMAS TOSDAL
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Attorneys for Plaintiff DEENA DEARDURFF SCHMIDT

SUPERIOR COURT OF CALIFORNIA

IN AND FOR COUNTY OF SAN DIEGO

CENTRAL DIVISION

DEENA DEARDURFF SCHMIDT, Plaintiff, v. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, SAN DIEGO STATE UNIVERSITY, JEFF SCHEMMEL, DOES 1-15, Defendants.	CASE NO. 37-2007-00081372-CU-OE-CTL COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff alleges:

Nature of Action

1. This action seeks remedy for Plaintiff Deena Deardurff Schmidt for discrimination and retaliation by Defendants Board of Trustees of the California State University, San Diego State University, and Jeff Schemmel in violation of Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., which forbids sex discrimination in any education program or activity receiving federal financial assistance, and of California's anti-discrimination in employment laws, Govt. Code §12940 et seq.

Parties

2. Plaintiff Deena Deardurff Schmidt is a resident of the county of San Diego, California. In the 1970s, Schmidt was a world class competitive swimmer who swam on the United States' team.

During the 1972 Olympic Games, Schmidt won a gold medal while swimming on the United States' team. Between 1994 and August 2007, Schmidt was employed as the head coach of San Diego State University's women's swimming and diving teams.

3. Defendant Board of Trustees of the California State University ("Board of Trustees") is the governing body of the California State University, a public university in the State of California. The Board of Trustees is an employer within the meaning of Govt. Code §12926(d), a university within the meaning of 20 U.S.C. §1687(2)(A), and a recipient of federal educational funding.

4. Defendant San Diego State University ("SDSU") is a campus of the California State University. SDSU is an employer within the meaning of Govt. Code §12926(d), a university within the meaning of 20 U.S.C. §1687(2)(A), and a recipient of federal educational funding. SDSU is located within the judicial district of this Court.

5. Defendant Jeff Schemmel is the Director of Intercollegiate Athletics of SDSU. At all times material, Schemmel was a person acting as an agent and employee of the Board of Trustees and SDSU. At all times material, Shemmel was acting in the course and scope of his agency and employment as Director of Intercollegiate Athletics of SDSU. Plaintiff is informed and believes that Schemmel resides in the county of San Diego.

6. Plaintiff sues DOES 1-15 by fictitious names because she is presently unaware of their identity. Each DOE defendant is legally responsible in some manner for the harm caused to Schmidt as alleged in this complaint.

7. At all times material, Defendants, and each of them, were the agents and employees of each other and acted in the course and scope of such agency and employment.

Venue

8. Venue is proper under C.C.P. §395(a) because SDSU is located, Schemmel resides, the contracts of employment between SDSU and Schmidt were entered, and the wrongs alleged in this complaint were committed in the county of San Diego.

Factual Allegations

9. In 1994 SDSU hired Schmidt on a part time basis as the head coach for the women's swimming, diving, and water polo teams when those teams were re-instated by SDSU at that

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time.

10. In 1995 and in succeeding years until 2007, SDSU retained and reappointed Schmidt as the head coach for the women's swimming and diving teams on a full time, salaried basis. From 1994 to about 1998 Schmidt served as head coach of the women's water polo team.

11. Between 1994 and 2007, Schmidt was qualified to serve as head coach of the women's swimming, diving, and, when applicable, water polo teams and ably and competently performed her duties in those capacities.

12. SDSU's women's swimming and diving teams are in NCAA Division 1, competing at the highest level of intercollegiate athletics. There are approximately 200 NCAA Division one women's swimming teams in the country. SDSU does not and since 1994 has not had a men's swimming or diving team.

13. When Schmidt started work as head coach and for the first few years of her employment, SDSU had a swimming pool on the SDSU campus which was compliant with NCAA standards in which the women's swimming team could train and compete. The campus pool was not NCAA compliant for water polo so the water polo team had to train and compete in off campus facilities.

14. In the fall of 1996, SDSU closed the campus pool for upgrades. Both the women's swimming and water polo teams were forced to train and compete in off campus facilities not owned or operated by SDSU.

15. On or about 1997, Schmidt was advised by then SDSU Athletic Director Rick Bay that he and SDSU intended to build an athletic center on the SDSU campus location where the swimming pool was located. The athletic center was to include a number of facilities, including the offices of the Athletic Director. Schmidt objected to the closure of the pool to the Athletic Director and his assistant because the women's swimming and diving teams would have no place to train or compete. The Athletic Director overrode Schmidt's objections but assured Schmidt that the campus pool would not be removed until a new campus pool was under construction.

16. The Board of Trustees and SDSU did not provide funding for a new campus pool. Schmidt sought through her own efforts to obtain funding to construct a new pool so the women's teams

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could recruit, train, and compete on an equal level. In the course of those efforts during the late 1990s, Schmidt was sexually harassed by a donor who repeatedly physically grabbed her and promised to donate money to construct a new pool if she would have sex with him. Schmidt reported this conduct at various times to the Athletic Director, the Assistant Athletic Director, and the head of SDSU's Athletic Department fund raising, but no action was taken to stop the donor's conduct. Bay told Schmidt that this conduct was not uncommon from this donor, that he was a big donor, and she needed to deal with it. Nothing was done by the Board of Trustees or SDSU to stop the donor's actions. Schmidt refused the donor's advances, and no donation for a pool was made by this person.

17. To locate funding for a pool, Schmidt spent long hours helping to develop and publicize more than one Associated Students' referenda to increase student fees to build a new swimming pool. One such initiative failed in 1998 by about 76 votes.

18. On or about 1999, SDSU demolished the campus swimming pool despite the absence of funding for a new pool on campus. Schmidt protested to Athletic Director Bay that, among other things, it was illegal to close the pool and leave the women's teams with no facility to train and compete, and the off-campus facility that had been located at which to train was dangerous and inadequate. Bay told Schmidt that he knew how difficult it would be to hold a team together, much less compete, but that Schmidt needed to support the decision to build an athletic center at the location of the existing campus pool. Bay assured Schmidt that if she could hold her team together, graduate athletes, and keep them out of trouble he would continue to support Schmidt and had no expectations about what the team could do given the circumstances.

19. With much difficulty, Schmidt located off campus facilities at which to train. Between 1999 and 2007, the women's swimming team trained at six different facilities. The primary facility was at a local recreation facility in a high crime area in San Diego. When that facility was unavailable, the women's swimming team trained at various off-campus facilities, such as Southwestern College in Chula Vista, Bud Kern's in Balboa Park, a Tierrasanta recreation facility, Allied Gardens Community Center, and at other facilities. Available training times were not consistent, and the facilities on occasion were not available for training for extended periods

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of time, necessitating a search by Schmidt for another facility. Around 2004, the team trained in the morning at the newly opened Kroc Center on University Avenue in San Diego and in the afternoons at another facility. Meets were hosted at the various training facilities.

20. The women's diving team also suffered from a lack of facilities and financial and administrative support from the Board of Trustees and SDSU. Because of the lack of funding, the women's diving team had no diving coach for the school years of 1994-1995 through 2002-2003. During those years, Schmidt consistently advocated to the Athletic Director and others at SDSU for increased funding to hire a diving coach but did not receive it. While some increased but not adequate funding was given for a diving coach during the school years from 2003-2004 through 2006-2007, the diving team, like the swimming team, had no on-campus facility at which to compete or train. The women's diving team was forced to train at various facilities throughout the county of San Diego and at difficult and inconsistent times.

21. Each year that the SDSU women's swimming and diving teams did not have an on-campus facility at which to train and hold meets, it became more difficult for Schmidt and her staff to recruit swimmers and divers to the women's teams.

22. On or about 2001, SDSU terminated or did not renew the employment of Rick Bay. Some time thereafter, SDSU hired Gene Bartow as interim Athletic Director. On or about 2003, SDSU hired Mike Bohn as Athletic Director. Shortly after he was hired, Schmidt met with Bohn and explained the difficulties she had with holding a swimming team together without a facility and asked Bohn to meet with a potential donor to help raise funds for a new pool. Bohn refused to pursue the potential fund raising efforts of the donor for a new pool; he told Schmidt that "if she kept on this she would be walking the plank." Recruiting became increasingly difficult in the absence of proper pool and diving facilities.

23. Schmidt worked long hours on another Associated Students referendum to raise student fees to build a pool facility on campus and to design such a facility. In 2004, the referendum passed, with the SDSU students voting to increase their student fees to construct an on campus swimming pool facility.

24. Two days before the fall 2004 school term started, Schmidt was diagnosed with breast

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cancer. During the 2004-2005 school year, Schmidt had five surgeries and underwent chemotherapy in attempts to arrest the cancer. Although she was ill, lost much weight, and had lost her hair, Schmidt continued to work as best she could with the help of her part-time assistant coaches. Although Schmidt requested help from Athletic Director Bohn, she did not receive any help from him nor did he communicate with her for several months.

25. In the summer of 2005, Bohn departed SDSU employment and Schemmel was hired as Athletic Director. While still recovering from chemotherapy and without hair, Schmidt informed Schemmel of her cancer. Although ill for an extended period of time from the cancer, Schmidt kept working as head coach of the women's swimming team as best she could. In the summer of 2006, Schmidt developed a serious bacterial infection, which was probably caused by her numerous surgeries. In the fall of 2006, Schmidt's doctors inserted a port in her forearm for the intravenous injection of antibiotics for 1 ½ hours per day which she kept in her forearm for several months.

26. Over the years of her employment up to summer of 2005 and thereafter until the non-renewal of her contract and termination in 2007, Schmidt, and others in her behalf, advocated to Defendants, and their agents and employees, for gender equity in athletics and against sex discrimination in athletics and her employment, which included but is not limited to the following actions:

(a) Schmidt protested against the unequal and inadequate athletic facilities and opportunities for the women's swimming and diving teams;

(b) Schmidt protested against the unequal, changing, burdensome and varied practice times for women athletes in the swimming and diving program;

(c) Schmidt protested against the unequal pay for her and her part time assistant coaches;

(d) Schmidt protested against the absence of full time assistant coaches and a trainer compared to men's athletic programs;

(e) Schmidt protested against unequal financial and administrative support and transportation for women athletes in the women's swimming and diving programs;

(f) Schmidt protested Schemmel's failure to grant her a multi-year contract in 2006 (only

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a one year contract was provided) and his imposition of unrealistic performance objectives for the 2006-2007 school year, although the contracts provided to male coaches were not so limited and did not include such unrealistic objectives;

(g) Schmidt protested against unequal recruitment of women swimmers and divers based on the absence of adequate and equal swimming and diving facilities compared to men's sports.

27. Schmidt's contract for the 2006-2007 school year was to expire by its own terms on May 31, 2007. On or about June 8, 2007, Schmidt was summoned to a meeting with Schemmel on June 11, 2007. At that time, Schmidt was scheduled for surgery for another cancer condition, melanoma, of which Schemmel was advised. Schemmel told Schmidt that he did not believe she could bring the women's swimming team to the "national level" and that he would not reappoint her for the following school year. Schemmel gave Schmidt an additional two month contract until July 31, 2007, to wind up her affairs at SDSU, after which she was no longer employed by SDSU.

28. The new SDSU on-campus pool facility, constructed by the efforts in large part of Schmidt and from student fees obtained by the student referendum on which Schmidt worked so hard, opened in March 2007, after the end of the 2006-2007 women's swimming and diving seasons.

29. All of the performance reviews in Schmidt's SDSU personnel file have overall ratings from good to excellent.

30. Schmidt has never been disciplined by SDSU for any reason.

31. On or about mid-August 2007, Schemmel and SDSU announced they had hired a man to coach the women's swimming team. At present, SDSU's women's swimming and diving teams are coached entirely by men.

32. Schmidt is presently without work. In order to retain health care coverage, Schmidt was forced by the wrongful acts of Defendants to take early retirement from SDSU at a level of benefits greatly reduced from what would have been her normal retirement benefit.

33. On or about September 17, 2007, Schmidt filed complaints of discrimination against Defendants with the California Department of Fair Employment and Housing, which issued right to sue letters on or about September 21, 2007.

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34. Schmidt has exhausted her administrative remedies. No further exhaustion of administrative remedies is required. In the alternative, further exhaustion of administrative remedies would be futile.

First Cause of Action
(Against Board of Trustees and SDSU for
Sex Discrimination - Retaliation under Title IX)

35. Plaintiff incorporates by reference paragraphs 1-34 of this complaint.

36. Title IX of the Education Amendments of 1972, 20 U.S.C. §1681(a), provides that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of sex in any education program or activity receiving federal financial assistance.

37. Defendants Board of Trustees, SDSU, and DOES 1-15 denied Schmidt pay, limited the duration of her reappointment and contract, imposed unrealistic expectations, did not renew her contract, and terminated her from her position as head coach of the women's swimming and diving teams in retaliation for her protesting against gender inequity and advocating gender equity in athletics as alleged in this complaint, in violation of 20 U.S.C. §1681(a).

38. As a legal result of the wrongful conduct of Defendants, and each of them, Schmidt has suffered economic and non-economic damages in an amount according to proof.

Second Cause of Action
(Against Board of Trustees and SDSU for
Sex Discrimination under Title IX)

39. Plaintiff incorporates by reference paragraphs 1-34 and 36 of this complaint.

40. Defendants Board of Trustees, SDSU, and DOES 1-15 denied Schmidt pay, limited the duration of her reappointment and contract, imposed unrealistic expectations, did not renew her contract and terminated her from her position as head coach of the women's swimming and diving teams because of her sex, in violation of 20 U.S.C. §1681(a).

41. As a legal result of the wrongful conduct of Defendants, and each of them, Schmidt has suffered economic and non-economic damages in an amount according to proof.

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Page 10
Exhibit A

Third Cause of Action
(Against Board of Trustees, SDSU and Schemmel for Sex Discrimination – Retaliation under FEHA)

42. Plaintiff incorporates by reference paragraphs 1-34 of this complaint.

43. Defendants Board of Trustees, SDSU, Schemmel and DOES 1-15, individually and by and through their agents and employees, inflicted upon Schmidt the adverse employment actions of denial of pay, limitation of the duration of her reappointment and contract, imposition of unrealistic expectations, and non-renewal of contract and termination of employment as head coach of the women's swimming and diving teams in retaliation for her protests against acts which constituted or which she reasonably believed constituted sex discrimination in violation of Govt. Code §§12940(a) and (h). In addition, Defendants Board of Trustees, SDSU, and DOES 1-15 failed to take all reasonable steps necessary to prevent retaliation against Schmidt from occurring in violation of Govt. Code §12940(k).

44. As a legal result of the wrongful conduct of Defendants, and each of them, Schmidt has suffered economic and non-economic damages in an amount according to proof.

Fourth Cause of Action
(Against Board of Trustees, SDSU for Sex Discrimination under FEHA)

45. Plaintiff incorporates by reference paragraphs 1-34 of this complaint.

46. Defendants Board of Trustees and SDSU, and DOES 1-15 inflicted upon Schmidt the adverse employment actions of denial of pay, limitation of the duration of her reappointment and contract, imposition of unrealistic expectations, and non-renewal of contract and termination of employment as head coach of the women's swimming and diving teams because of her sex in violation of Govt. Code §12940(a). In addition, Defendants Board of Trustees, SDSU, and DOES 1-15 failed to take all reasonable steps necessary to prevent discrimination against Schmidt on the basis of sex from occurring in violation of Govt. Code §12940(k).

47. As a legal result of the wrongful conduct of Defendants, and each of them, Schmidt has suffered economic and non-economic damages in an amount according to proof.

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Fifth Cause of Action
(Against Board of Trustees and SDSU for Medical Condition and Disability Discrimination under FEHA)

48. Plaintiff incorporates by reference paragraphs 1-34 of this complaint.

49. Defendants Board of Trustees, SDSU, and DOES 1-15 inflicted upon Schmidt the adverse employment actions of denial of pay, limitation of the duration of her reappointment and contract, imposition of unrealistic expectations, and non-renewal of contract and termination of employment as head coach of the women's swimming and diving teams because of her medical condition and disability, as defined in Govt. Code §12940(h) and (k), in violation of Govt. Code §12940(a).

50. As a legal result of the wrongful conduct of Defendants, and each of them, Schmidt has suffered economic and non-economic damages in an amount according to proof.

Remedy

Plaintiff Schmidt requests judgment as follows:

1. For economic damages in an amount according to proof;
2. For non-economic damages in an amount according to proof;
3. For prejudgment interest;
4. For reasonable attorney's fees;
5. For costs of suit;
6. For such other and further relief as the Court deems just and proper.

Dated: 11-6-07

[signature]
Thomas Tosdal
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all causes of action.

Dated: 11-6-07

[signature]
Thomas Tosdal
Attorneys for Schmidt

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
STREET ADDRESS: 330 West Broadway
MAILING ADDRESS: 330 West Broadway
CITY AND ZIP CODE: San Diego, CA 92101
BRANCH NAME: Central
TELEPHONE NUMBER: (619) 685-6144

PLAINTIFF(S) / PETITIONER(S): Deena Deardurff Schmidt

DEFENDANT(S) / RESPONDENT(S): Board of Trustees of the California State University et.al.

SCHMIDT VS. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY

NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2007-00081372-CU-OE-CTL

Judge: Ronald S. Prager Department: C-71

COMPLAINT/PETITION FILED: 11/07/2007

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

Page 13
Exhibit A

SUMMONS
(CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

2007 NOV -7 PM 3:33

SAN DIEGO COUNTY, CA

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, SAN DIEGO STATE UNIVERSITY, JEFF SCHEMMEL, DOES 1-15

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
DEENA DEARDURFF SCHMIDT

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados lo

The name and address of the court is:
(El nombre y dirección de la corte es):
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
330 WEST BROADWAY

SAN DIEGO, CA 92101
CENTRAL DIVISION

CASE NUMBER: *(Número del Caso):* 37-2007-00081372-CU-OE-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
THOMAS TOSDAL, ESQ. (CA BAR NO. 67834) 619-239-7200 619-239-6048fax
TOSDAL SMITH STEINER & WAX
600 B STREET, SUITE 2100
SAN DIEGO, CA 92101

DATE: *(Fecha)* NOV 07 2007 Clerk, by *(Secretario)* WYNNIE S. ABELLA, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010)).*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served
1. [X] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [ ] on behalf of *(specify)*:

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
[ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized person)
[ ] other *(specify)*:

4. [X] by personal delivery on *(date)*:

Page 1 of 1

EXHIBIT C

RICHARD A. PAUL (SBN 057976)
KARI D. SEARLES (SBN 204886)
PAUL, PLEVIN, SULLIVAN & CONNAUGHTON LLP
401 B Street, Tenth Floor
San Diego, California 92101-8214
Telephone: 619-237-5200
Facsimile: 619-615-0700

Attorneys for Defendants
BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY (erroneously sued as SAN DIEGO STATE UNIVERSITY), JEFF SCHEMMEL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DIVISION

DEENA DEARDURFF SCHMIDT, Plaintiff, v. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, SAN DIEGO STATE UNIVERSITY, JEFF SCHEMMEL, DOES 1-15, Defendants.	CASE NO. 37-2007-00081372-CU-OE-CTL **NOTICE OF REMOVAL TO FEDERAL COURT** Complaint Filed: November 7, 2007 Dept.: C-71 Judge: Ronald S. Prager **EXEMPT FROM FEES - GOV. CODE, § 6103**

TO PLAINTIFF DEENA DEARDURFF SCHMIDT AND TO HER ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the United States District Court for the Central District of California on December 14, 2007.

PLEASE TAKE FURTHER NOTICE that pursuant to 28 U.S.C. section 1446(d), after removal "the state court shall proceed no further unless and until the case is remanded."

///

///

///

Page 15
Exhibit C

A copy of the said Notice of Removal is attached to this Notice, and is served and filed herewith.

Dated: December 14, 2007

PAUL, PLEVIN, SULLIVAN
& CONNAUGHTON LLP

By: [signature]
RICHARD A. PAUL
KARI D. SEARLES
Attorneys for Defendants

Page 16
Exhibit C

Re: Schmidt v. CSU, et. al.
SDSC Case No. 37-2007-00081372-CU-OE-CTL

PROOF OF PERSONAL SERVICE

I, the undersigned, certify and declare that I am a citizen of the United States, over the age of eighteen, employed in the County of San Diego, State of California, and not a party to the within-entitled action. My business address is P.O. Box 12037, San Diego, California, 92101.

On December 14, 2007, I served a true copy of the within:

- **NOTICE OF REMOVAL TO FEDERAL COURT**
- **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441 (FEDERAL QUESTION)**

by delivering for personal service to the following:

Attorneys for Plaintiff, DEENA DEARDURFF SCHMIDT

Thomas L. Tosdal
Tosdal, Smith, Steiner & Wax
600 B Street, Suite 2100
San Diego, CA 92101
Phone: 619-239-7200
Fax: 619-239-6048

I hereby certify that I am employed by Accutech Messenger Service, San Diego, California, at whose direction the personal service was made.

Executed this 14th day of December 2007, at San Diego, California.

ACCUTECH MESSENGER

Print name

Re: Schmidt v. CSU, et. al.
SDSC Case No. 37-2007-00081372-CU-OE-CTL

PROOF OF PERSONAL SERVICE

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Thomas L. Tosdal
Tosdal, Smith, Steiner & Wax
600 B Street, Suite 2100
San Diego, CA 92101
Phone: 619-239-7200
Fax: 619-239-6048

I hereby certify that I am employed by Accutech Messenger Service, San Diego, California, at whose direction the personal service was made.

Executed this 14th day of December 2007, at San Diego, California.

[signature]
ACCUTECH MESSENGER

Tori G Smith
Print name

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DEENA DEARDURFF SCHMIDT

DEFENDANTS

BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, SAN DIEGO STATE UNIVERSITY, JEFF SCHEMMEL

'07 CV 2343 DMS WMc

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF SAN DIEGO
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT SAN DIEGO
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

FILED
DEC 14 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Thomas L. TosdaL
Tosdal, Smith, Steiner & Wax
600 B Street, Suite 2100
San Diego, CA 92101
619-239-7200

ATTORNEYS (IF KNOWN)
Richard A.Paul
Paul, Plevin, Sullivan & Connaughton, LLP
401 B Street, 10th Floor
San Diego, CA 92101
(619) 237-5200

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- [ ] 1 U.S. Government Plaintiff
- [X] 3 Federal Question (U.S. Government Not a Party)
- [ ] 2 U.S. Government Defendant
- [ ] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business in This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 USC 1441

V. NATURE OF SUIT *(PLACE AN "X" IN ONE BOX ONLY)*

CONTRACT
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability

REAL PROPERTY
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

TORTS

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury

PERSONAL INJURY
- [ ] 362 Personal Injury - Medical Malpractice
- [ ] 365 Personal Injury - Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

CIVIL RIGHTS
- [ ] 441 Voting
- [X] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 444 Welfare
- [ ] 440 Other Civil Rights

PRISONER PETITIONS
- [ ] 510 Motion to Vacate Sentence

HABEAS CORPUS:
- [ ] 530 General
- [ ] 535 Death Penalty
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Conditions

FORFEITURE/PENALTY
- [ ] 610 Agriculture
- [ ] 620 Other Food & Drug
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 630 Liquor Laws
- [ ] 640 R.R. & Truck
- [ ] 650 Airline Regs.
- [ ] 660 Occupational Safety/Health
- [ ] 690 Other

LABOR
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Mgmt. Relations
- [ ] 730 Labor/Mgmt. Reporting & Disclosure Act
- [ ] 740 Railway Labor Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 840 Trademark

SOCIAL SECURITY
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- [ ] 400 State Reappointment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce/ICC Rates/etc.
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 810 Selective Service
- [ ] 850 Securities/Commodities/ Exchange
- [ ] 875 Customer Challenge 12 USC 3410
- [ ] 891 Agricultural Acts
- [ ] 892 Economic Stabilization Act
- [ ] 893 Environmental Matters
- [ ] 894 Energy Allocation Act
- [ ] 895 Freedom of Information Act
- [ ] 900 Appeal of Fee Determination Under Equal Access to Justice
- [ ] 950 Constitutionality of State Statutes
- [ ] 890 Other Statutory Actions

VI. ORIGIN *(PLACE AN "X" IN ONE BOX ONLY)*

- [ ] 1 Original Proceeding
- [X] 2 Removal from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from another district (specify)
- [ ] 6 Multidistrict Litigation
- [ ] 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ______________ Docket Number ______________

DATE
December 14, 2007

SIGNATURE OF ATTORNEY OF RECORD
RAPaul

PAID $350 12/17/07 RCPT# 145577 BH

::ODMA\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)

ORIGINAL

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

# 145577 - BH
*** * C O P Y * ***
December 17, 2007
09:01:29

Civ Fil Non-Pris
USAO #.: 07CV2343 CIVIL FILING
Judge..: DANA M SABRAW
Amount.: $350.00 CK
Check#.: BC# 27235

Total-> $350.00

FROM: SCHMIDT V. CA. STATE UNIV. B.O
CIVIL FILING